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Attorney for Defendant  
THAI SPEED, INC., dba CITIZEN THAI

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CHARLES BLACKWELL,

Plaintiff,

vs.

CHRISTOPHER P. FOLEY, THAI SPEED,  
INC., dba CITIZEN THAI and DOES 1-10,  
Inclusive,

Defendants.

Case No. C 08-01971-EMC

**E-FILED**

**NOTICE OF PENDENCY OF ACTION OR  
PROCEEDING**

PLEASE TAKE NOTICE that there is currently pending an action before the Honorable Judge Sandra Armstrong involving the same real property at issue and the same principle parties. Defendant THAI SPEED, INC., dba CITIZEN THAI knows that the case of Charles Blackwell v. City and County of San Francisco, 1268 Grant Avenue, LLC, Christopher P. Foley, United States District Court for the Northern District of California Case No. C 07-04629 SBA; Civil Rights ADA action involves all or a material part of the same subject matter and all or substantially all the same parties as this pending action.

(1) Description of the other action:

Charles Blackwell v. City and County of San Francisco, 1268 Grant Avenue, LLC,  
Christopher P. Foley, Case No. C 07-04629 SBA; Civil Rights ADA action;

1 (2) The title and location of the court in which the other action or proceeding is pending:  
2 USDC Northern District of California, Oakland.

3 (3) A brief statement of the relationship of the other action to the action or proceeding pending  
4 in this district:

5 Both actions involve the same real property and the same defendants.

6 In the case currently pending before the Honorable Judge Armstrong, case number C 07-04629,  
7 defendants 1268 Grant Avenue LLC and Christopher Foley filed a Motion to Dismiss the Complaint.  
8 In response to said Motion to Dismiss, Plaintiff Blackwell filed a First Amended Complaint without  
9 leave of court; said First Amended Complaint was filed on November 15, 2007 and alleges, as in the  
10 First Amended Complaint filed in action number C 08-01971, that Plaintiff was "patronizing" the  
11 restaurant at issue in both cases, with his expert consultant and that during said site visit Plaintiff  
12 encountered barriers. The First Amended Complaint in Action C 07-04629 SBA named defendants  
13 Christopher Foley, and Thai Speed, Inc. dba Citizen Thai.  
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15 In response to the First Amended Complaint in Action C 07-04629, defendant filed a motion  
16 under Federal Rule of Civil Procedure 12(f), as the First Amended Complaint was filed without leave  
17 of court and while the Motion to Dismiss the original Complaint was pending. The Honorable Judge  
18 Armstrong granted the Motion to Strike the First Amended Complaint by Order of March 24, 2008.  
19 In response to said Order, Plaintiff filed this new lawsuit, Action C 08-01971.

20 (4) Coordination will conserve resources and promote efficiency:

21 Defendant is of the opinion that coordination of the two actions, with the Honorable Judge  
22 Armstrong presiding, would avoid conflicts, conserve resources and promote an efficient  
23 determination of the action. The Honorable Judge Armstrong is aware of the history of the events  
24 alleged in both cases, and initial disclosures have already taken place in the first action; disclosures  
25 in both actions would be substantially the same.

26 WHEREFORE, defendant Thai Speed, Inc., dba Citizen Thai, prays that this case be  
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1 transferred and assigned to the Honorable Judge Armstrong.  
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3 Dated: June 4, 2008

LAW OFFICES OF JANET BRAYER

4  
5 By: /s/ Janet Brayer

JANET BRAYER

6 Attorneys for Defendant

7 THAI SPEED, INC. dba CITIZEN THAI  
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CERTIFICATE OF SERVICE

I am a citizen of the United States. My business address is 20 California Street, Suite 201, San Francisco, California 94111. I am employed in the County of San Francisco where this service occurs. I am over the age of 18 years and not a party to the within cause. I am readily familiar with my normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On June 4, 2008 following ordinary business practice, I caused to have served the document(s) described as: **NOTICE OF PENDENCY OF ACTION OR PROCEEDING** on the interested parties in said action addressed as follows:

P. RICHARD COLOMBATTO  
MICHAEL K. TCHENG  
COLOMBATTO KLIMENKO LLP  
130 Sutter Street, 7<sup>th</sup> Floor  
San Francisco, California 94104

xx (BY MAIL) by placing a true and correct copy of the document(s) listed above enclosed in a sealed envelope(s) with postage thereon fully prepaid in the United States Mail at San Francisco, California.

(BY FACSIMILE) by transmitting via facsimile the document(s) listed above to the facsimile number(s) set forth above, or as stated on the attached service list, on this date before 5:00 p.m.

(BY PERSONAL SERVICE) by placing a true and correct copy of the document(s) listed above enclosed in a sealed envelope(s) and causing said envelope(s) to be delivered by hand this date to the offices of the addressee(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **June 4, 2008** at San Francisco, California.

/s/ Anita Vejar

ANITA VEJAR